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| APPLICATION NO.             | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|-----------------------|------------------|
| 10/653,655                  | 09/02/2003  | Paul O. Zamora       | 30817-1010            | 3423             |
| 5179                        | 7590        | 01/19/2005           | EXAMINER              |                  |
| PEACOCK MYERS AND ADAMS P C |             |                      | NAKARANI, DHIRAJLAL S |                  |
| P O BOX 26927               |             |                      | ART UNIT              |                  |
| ALBUQUERQUE, NM 871256927   |             |                      | PAPER NUMBER          |                  |
|                             |             |                      | 1773                  |                  |

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                               |  |
|------------------------------|-------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/653,655 | Applicant(s)<br>ZAMORA ET AL. |  |
|                              | Examiner<br>D. S. NAKARANI    | Art Unit<br>1773              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-35 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This restriction is based on following interpretation of claims by the Examiner.

This interpretation of claims based on the original claims presented in the parent case S/N 09/746,234 filed December 21, 2000.

(1) Claim 1 is interpreted as surface of an implantable medical device is first modified by claimed plasma treatment followed by coating the plasma treated surface with a biologically compatible coating.

(2) Claim 15, the surface of a product is treated with claimed plasma treatment to produce plasma treated product followed by coating the plasma treated product by plasma polymerization of claimed hydrocyclosiloxane.

(3) Claim 17, the product of claim 15 is further coated by plasma polymerization of claimed monomer on the top of plasma polymerized coating of hydrocyclosiloxane.

(4) Claim 18, the product of claim 17 further coated with a polyoxyalkylene tether of claimed formula.

In case of above interpretation is incorrect applicants are requested to point to correct interpretation.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16 and 19-35 are, drawn to a two layered implantable medical device and method of making it, classified in classes 428 and 427, subclasses 412<sup>+</sup> and 539<sup>+</sup>.

II. Claim 17 is, drawn to a three-layered implantable medical device, classified in class 428, subclass 411.1<sup>+</sup>.

III. Claim 18 is, drawn to a four-layered implantable medical device, classified in class 428, subclass 411.1<sup>+</sup>.

3. Inventions I, II and III are independent distinct from each other because the invention I requires single coating while the inventions II and III requires multi-layer coatings of different materials.

Further election of any one of the inventions requires election of (a) any one of device of claim 9, (b) a biologically compatible coating of either claim 12 or claim 14 and (c) contacting surface of either of metallic material (claim 10) or of polymeric material (claim 11).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Mr. Stephen A. Slusher on January 7, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

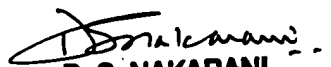
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday thru Friday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1773

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nakarani/LR  
January 13, 2005

  
**D. S. NAKARANI**  
**PRIMARY EXAMINER**